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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 JOHN SCANNELL,

10 Plaintiff,

11 v.

12 WASHINGTON STATE BAR
13 ASSOCIATION, *et al.*,

14 Defendants.

CASE NO. C18-5654 BHS

ORDER AFFIRMING ORDER DECLINING
TO DISQUALIFY

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16 This matter is before the Court on Plaintiff's Motion to Disqualify Judge Settle (Dkt. #43)
17 and Judge Settle's Order Declining to Disqualify and Referring Plaintiff's Motion to Chief Judge
18 (Dkt. #46). Plaintiff's earlier motion to have the case reassigned to an out of state judge who is
19 not a member of the Washington State Bar Association was denied by Judge Settle and affirmed
20 by the undersigned. Dkts. #12 and #27. Plaintiff now asserts that Judge Settle should be
21 disqualified because his actions in the case have denied Plaintiff due process and because "Judge
22 Settle based his ruling on a factual finding that had no support in the record nor any basis in
23 reality." Dkt. #43 at 3. Judge Settle has denied Plaintiff's Motion to Disqualify and the matter
24 was referred to the undersigned pursuant to Local Civil Rule 3(f).
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1 Pursuant to 28 U.S.C. § 455(a), a “judge of the United States shall disqualify himself in
2 any proceeding in which his impartiality might reasonably be questioned.” Federal judges also
3 shall disqualify themselves in circumstances where they have “a personal bias or prejudice
4 concerning a party, or personal knowledge of disputed evidentiary facts concerning the
5 proceeding.” 28 U.S.C. § 455(b)(1). Further, section 144 of title 28 of the United States Code
6 provides:

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8 Whenever a party to any proceeding in a district court makes and files a timely
9 and sufficient affidavit that the judge before whom the matter is pending has a
10 personal bias or prejudice either against him or in favor of any adverse party, such
11 judge shall proceed no further therein, but another judge shall be assigned to hear
12 such proceeding.

13 The affidavit shall state the facts and the reasons for the belief that bias or
14 prejudice exists, and shall be filed not less than ten days before the beginning of
15 the term at which the proceeding is to be heard, or good cause shall be shown for
16 failure to file it within such time. A party may file only one such affidavit in any
17 case. It shall be accompanied by a certificate of counsel of record stating that it
18 is made in good faith.

19 28 U.S.C. § 144.

20 Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
21 if “a reasonable person with knowledge of all the facts would conclude that the judge’s
22 impartiality might reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626
23 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
24 bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992);
25 *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

26 Plaintiff’s Motion does not provide a basis for concluding that Judge Settle’s impartiality
27 might reasonable be questioned. Plaintiff’s arguments are entirely based upon supposition and
speculation. Moreover, Plaintiff’s Motion makes clear that it is premised on disagreement with
a prior ruling of the court and the procedure leading up to that ruling. “[A] judge’s prior adverse

1 ruling is not sufficient cause for recusal.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir.
2 1986); *see also Taylor v. Regents of Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) (“To warrant
3 recusal, judicial bias must stem from an extrajudicial source.”). Nothing in Plaintiff’s Motion
4 warrants disqualification.

5 Accordingly, the Court finds and ORDERS that Judge Settle’s Order Declining to
6 Disqualify and Referring Plaintiff’s Motion to Chief Judge (Dkt. #46) is AFFIRMED.

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8 DATED this 2nd day of January 2019.

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11 RICARDO S. MARTINEZ
12 CHIEF UNITED STATES DISTRICT JUDGE
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